

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:08cr134

UNITED STATES OF AMERICA )  
                                )  
                                )  
vs.                         )  
                               )        ORDER  
                               )  
CARLOS ROBERTO FIGUEROA-PINEDA (14) )  
SANTOS CABALLERO FERNANDEZ (23)     )  
                               )

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**THIS MATTER** is before the Court upon oral motions of the defendants for medical treatment while they are detained in the Mecklenburg County Jail.

The defendants are currently involved in a jury trial which began on January 12, 2010, and is expected to last two to three weeks. The Court's regular schedule is to conduct the trial between 9:30 a.m. and 6 p.m. The Court has been informed that this schedule has prevented the defendants from being at the jail when medical treatment is available. Thus, Defendant Figueroa-Pineda claims he has only received medication for his epileptic condition on the weekends and Defendant Caballero Fernandez has not received medication for an apparent allergic condition.

Title 18, United States Code, Section 3142(i) allows a court to direct a defendant into the custody of the Attorney General for confinement in a corrections facility, and to direct that the person be afforded reasonable opportunity to consult with counsel. The statute does not provide the Court authority in a criminal case to direct the corrections facility in its medical care for a pretrial detainee.<sup>1</sup>

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<sup>1</sup>The Fourth Circuit has recognized a federal pretrial detainee's right of action under 42 U.S.C. § 1983 to seek redress for deliberate indifference to his medical needs. Loe v. Armistead, 582 F.2d 1291, 1293-94 (4th Cir. 1978).

**IT IS, THEREFORE, ORDERED** that the defendants motions are **DENIED**. However, the Court **REQUESTS** that Mecklenburg County Jail provide medical treatment to the defendants outside regular hours as an accommodation to the Court's trial schedule.

The Clerk is directed to certify copies of this order to counsel for the defendants, to the United States Attorney, and the United States Marshals Service.

Signed: January 22, 2010



Robert J. Conrad, Jr.  
Chief United States District Judge

